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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/816,615	03/13/97	MANZO	1876 (203-183)

QMS1/0724

NEIL D GERSHON
UNITED STATES SURGICAL CORPORATION
150 GLOVER AVENUE
NORWALK CT 06856

EXAMINER	
ISABELLA, D	
ART UNIT	PAPER NUMBER
3738	
DATE MAILED:	
07/24/98	

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

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Continued Prosecution Application

1. The request filed on July 9, 1998 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/816,615 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9,16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaster.

Kaster discloses a graft assembly comprising a graft member 12, including a base portion (12a-d), a branch portion (12e,f), a clamp member (14) and a locking member (16,18).

Applicant argues that Kaster fails to disclose a graft assembly including a base portion, a branch portion, a clamp member and a locking member. Examiner is confused by applicant's arguments since examiner has outlined these elements supra. Examiner maintains that Kaster discloses each element and their function as claimed. Clearly the tube 12 has a proximal flanged end which has been interpreted to be the base portion. The distal end of the tube is configured to

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receive vein graft 26. The vein graft is attached to the branch member by locking elements (16,18 & 34,36) at a position spaced from the base portion and the clamp member.

Examiner fails to see the merit in applicant's arguments directed to the fitting of Kaster. Applicant's argues that the fitting is designed for a vessel to be positioned within the tube 12 and not about tube 12. Examiner does not find this interpretation to be based upon the disclosure of Kaster. Clearly the figures show the vessel attached about the tube 12 and not within the tube.

Response to Arguments

4. Applicant's arguments filed July 9, 1998 have been fully considered but they are not persuasive. As stated in the previous paragraph, the graft assembly of Kaster contains each element as claimed and functions in a similar manner as applicant's device. Examiner has failed to understand applicant's line of arguments. Perhaps an interview would aid in clarifying the issues.

Conclusion

5. Claims 1,3-6,8,10-15 are allowed.

6. This is a CPA of applicant's earlier Application No. 08/816,615. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in

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this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Isabella whose telephone number is (703) 308-3060. The Examiner's Supervisor, Mickey Yu, may be reached at (703) 308-2672. The group receptionist may be reached at (703) 308-0858.

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Should Applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 308-3590. Should Applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.


DAVID J ISABELLA

PRIMARY EXAMINER

GROUP 3700

dji

July 23, 1998